

Approved 3-18-08



**SCOTTSDALE CITY COUNCIL
JOINT TASK FORCE ON THE ARTS
SCOTTSDALE CULTURAL COUNCIL ANNEX CONFERENCE ROOM
MERCADO VERDE BUILDING
7373 E. SCOTTSDALE MALL, SUITE 18
SCOTTSDALE, AZ 85251
JUNE 6, 2007**

PRESENT:

Wayne Ecton, Councilmember
Ron McCullagh, Councilmember
Dick Hayslip, Cultural Council Trustee
Betty Drake, Councilmember
Geoff Beer, Cultural Council Trustee
Louise Roman, Cultural Council Trustee

STAFF:

Michelle Korf, City of Scottsdale
Shelley Cohn, Cultural Council Interim CEO
Valerie Vadala Homer, Cultural Council Public Art Program
Art Rullo, City of Scottsdale Budget Director
Craig Clifford, City of Scottsdale CFO
Jim Green, CFO, Cultural Council CFO
Paul Norman, City of Scottsdale City Attorney
Stewart Posner, City of Scottsdale Internal Auditor
Jeff Sparks, Intern, City of Scottsdale City Attorney's Office
Susan Krane, SMOCA Director
Kathy Hotchner, Scottsdale Center for the Performing Arts

OTHER:

Leslie Wright, Arizona Republic
Lindsey Butler, Scottsdale Tribune
Michael Kelly, Scottsdale Citizen
Darlene Peterson, Scottsdale Citizen
Patty Badenoch, Scottsdale Citizen

CALL TO ORDER / ROLL CALL:

Councilmember Ecton called the meeting to order at 12:02 p.m. The presence of the Task Force members was noted.

INTRODUCTIONS

All present introduced themselves.

GENERAL BUSINESS

1. Approval of Minutes

CO-CHAIR HAYSLIP MOVED APPROVAL OF THE MINUTES OF THE APRIL 27, 2007 MEETING. COUNCILMEMBER DRAKE SECONDED THE MOTION, WHICH CARRIED BY A UNANIMOUS VOTE OF SIX (6) TO ZERO (0).

2. Renewal of Master Agreement

a. Continuation of discussion regarding maintenance of physical plant, fixtures, and equipment, including replacement

Ms. Michelle Korf, Contract Administrator, City of Scottsdale, stated the purpose of this agenda item is to continue the discussion about maintenance issues from the last meeting. She stated staff does not necessarily expect a decision regarding this item; rather, the objective is to discuss these items sufficiently so staff can spend the summer working on a draft contract for review in the fall.

Ms. Shelley Cohn indicated a thorough inventory was conducted of equipment that is currently owned by the City, and a proposal was drafted to divide future responsibilities between the City and the Cultural Council. Ms. Cohn indicated the key issue is looking at who will be responsible for maintaining and replacing the equipment, particularly in light of the renovation. In that regard, many of the technical improvements for the theatre need to be considered.

Councilman Ecton stated he reviewed the document, looking particularly at items where existing ownership was proposed to be changed from the Scottsdale Cultural Council to the City. He stated where he was able he made calculations attempting to quantify the cost to the City, estimating the amount to be approximately \$104,000 per year.

Craig Clifford, General Manager, Financial Services, indicated not all items had been included in Councilman Ecton's calculations, thus the actual annual cost estimate could be as much as \$200,000.

Co-Chair Hayslip asked Ms. Cohn what criteria was used to arrive at their recommendations regarding ownership, and she responded that any requirements that would be typical for the owner of a facility should be the responsibility of the City. Programming would be the responsibility of the Cultural Council.

Mr. Beer suggested discussing a framework for looking at these topics before diving into the individual items. He stated much depends on what the overall role of the Cultural Council really is, which is an independent entity retained by the City to manage cultural services. He indicated that a manager typically manages something on behalf of an owner, and using that standard many of the items in question fall into place. He cited Rural Metro and the Herberger Theatre as examples for a general framework.

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Councilman Ecton stated an issue that would have to be resolved is how to deal with switching ownership of certain property, citing budgetary and contract concerns.

Councilmember Drake expressed concern that the infrastructure of the cinema and the stage is very specialized equipment. Councilman Ecton indicated if the Cultural Council were to part ways with the City, the City would ultimately have another entity provide the same services and those items would be used by someone else.

Citing a restaurant as an example, Mr. Clifford stated the vacating entity typically takes all kitchen appliances and the next restaurant supplies their own. In regard to the staging and other specialized items, Mr. Clifford inquired whether a new entity would want to bring their own equipment should the Cultural Council no longer represent the City. He also stated regardless of who owns the equipment, there should be language in the agreement defining management control accountability over the facilities, including standards and timing of repairs, replacement and upgrades. Ms. Korf agreed, stating the equipment should be maintained at industry standard levels.

Ms. Cohn indicated that each performing arts facility is unique, with equipment specific to each facility. She stated in regard to the renovation, the City is purchasing equipment that meets the specific needs of each facility. She stated being able to use that equipment at another facility was unlikely. Mr. Clifford responded that he was only suggesting that any new organization might want to replace existing equipment with their own. That being the case, he questioned if that equipment is something the City wants to own, especially if the SCC already owns it at this time.

In regard to the Performing Arts Theatre, Mr. Beer indicated that items like sound and lighting are highly tailored to the space and are not necessarily transferable. He indicated portability of items should be considered in making this decision. If the relationship between the City and the Cultural Council was ever terminated it would most likely be for performance-related issues, and the City would continue the cultural programs of Scottsdale with the current facilities. Referring to the restaurant analogy, he indicated in that situation the restaurant is a tenant, which is different than a manager.

Ms. Korf stated in the Task Force discussion there was just a brief reference to replacement, and clarified that if the responsibility for maintenance of a particular item transferred to the City, that the responsibility for replacement of that item would also transfer. There was general agreement that that was the understanding.

Councilman McCullagh commented the City has put more responsibility on the Cultural Council in regard to purchasing certain items. He indicated the problem with this scenario is the discretionary level of when it is acquired, how it is maintained, and when it is replaced changes when the decision is supported by somebody else's checkbook. He indicated theoretically he does not have a problem with the City owning all of this equipment because it is what the City desires in terms of facilities and equipment. He expressed concern, however, that the maintenance of City-owned property could be compromised unless the Cultural Council had some ownership also.

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Co-Chair Hayslip inquired if Councilman McCullagh's concerns could be eased if there was clear and explicit contract language regarding the Cultural Council's obligations regarding maintenance. Councilman McCullagh stated that does not affect the discretion level used in the acquisition or replacement of the equipment. He suggested perhaps a percentage of the acquisition costs could be assigned to the Cultural Council.

Councilmember Drake asked if the Cultural Council would be comfortable with delegating the responsibility for certain repairs or replacements to the City's procurement process. Ms. Cohn stated they wanted to make sure any equipment would be to the standards appropriate for a theatre or a museum; thus in some situations the quality issue would be key.

Ms. Krane suggested one way of addressing this might be a PP&E policy that would follow decision-making criteria commonly seen in collection policies. In that case, maintenance and replacement criteria for professional standards could be addressed. This would help define gray areas of ownership and responsibility.

Ms. Kathy Hotchner, Scottsdale Center for the Performing Arts, stated they have always tried to purchase equipment that was better than just standard; for example, the sound system is replaced every eight to ten years due to new technologies. She stated she would like to see the quality standard addressed.

Referring to the language in the packet, Councilman Ecton inquired if the term "renovation" is included in part of what is going to be done in the near future. Several individuals indicated it does. Councilman Ecton stated that, in fact, the City is already paying for most of it. Mr. Clifford indicated the issue of the contract should still be addressed for future reference. Councilman Ecton stated there are still other issues on the documents that need to be more specific regarding responsibility of certain items. Mr. Clifford agreed that these issues need to be clarified.

Councilmember Drake stated perhaps it would be more constructive to concentrate on what the City is not paying for rather than what it is, and ask why the City is paying for certain items and not for others.

Mr. Clifford stated if the City assumes ownership of all those items it increases the City's burden and questioned if that would decrease the City's ability to fund programs, and shift that burden to SCC. He stated in building the budget, he looks to fund maintenance needs first in order to maintain fiscal stability.

Mr. Beer stated that somewhat paralleled the discussion on public art. He indicated that would help the Cultural Council from a development perspective, and cited contributors would rather have their dollars going towards programming than paying for maintenance or equipment. He stated freeing up the Cultural Council from the real estate business and getting it back into cultural programming would be a very powerful incentive. He stated the City's procurement process would act as a system of checks and balances for the Cultural Council, noting that as the owner the City always has the ability to say no. To Mr. Clifford's point, Mr. Beer stated if the City is the owner and maintainer of the facility and the Cultural Council is the manager, the City should feel comfortable levying whatever maintenance standard it wants and the Cultural Council should willingly accept whatever maintenance standard the City wants to impose.

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Ms. Krane relayed that most of this equipment relates to the City's provision of public services, which adds to the incentive of maintaining the facilities to appropriate levels for public use and public participation.

After some calculations, Councilman Ecton stated that if, in fact, where the list of maintenance items says "renovation" that the City has accepted that is its responsibility, the figure would be approximately \$46,000 a year instead of \$100,000 a year, cutting it approximately in half. He indicated he agreed with Councilmember Drake's assessment that the remaining items are not overwhelming.

Councilman McCullagh reiterated that since this is a City facility, the City ought to pay for its maintenance; however, there should be some incentive basis for it not to be viewed as a free good for purposes of funding acquisition, maintenance, and replacement. Councilman Ecton agreed, and asked if there had been sufficient discussion to assist with drafting a proposal.

Ms. Cohn stated Staff has a concern about the low-bid issue and making sure the quality of the equipment that is purchased fits the standards of a museum or a theatre. She suggested the differential between the basic and the standards the Cultural Council wants would be their responsibility, thereby providing the incentive referenced by Councilman McCullagh.

Councilman Ecton reiterated there is a different level of analysis when purchases are made with someone else's money. He expressed confidence the Cultural Council would acquire the appropriate items and maintain them properly; however, there has to be some incentive to ensure that. Councilman McCullagh stated that should already be controlled by processes built into the system. Councilmember Drake suggested safeguards could be built into the specifications and procedures.

Mr. Beer stated that many times abuse tends to be on little items in this situation, and suggested the Cultural Council be responsible for small, daily maintenance items. Co-Chair Hayslip suggested staff take that into consideration as they work on the contract.

b. The role of the Cultural Council as advisor to local arts community.

Ms. Korf stated the contract identifies the Cultural Council as the City's advisor with regards to arts and culture, indicating that the most concrete manifestation of the Cultural Council's external focus is the Community Arts Grants Program. She indicated the program grants funds to Scottsdale-based arts organizations and regional arts organizations that hold arts programs within the City limits. The granting amount has remained at just over \$50,000 for several years; however, the interest and demand for these funds has increased. Out of a total of 26 grant applications requesting \$170,000, the trustees recently approved grants to approximately 15 or 16 arts agencies that totaled approximately \$57,000. Ms. Korf indicated staff would like to hear discussion on two issues: The role of the Cultural Council in relationship to other Scottsdale-based arts organizations, and any specific goals they may have for the Community Arts Grants Program in the future.

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Ms. Cohn added that through the Cultural Assessment they have found local arts agencies and organizations have evolved over past 10 to 15 years, with a lot of arts activity occurring outside of the Cultural Council. She indicated grant making is a vehicle for representing arts in the community, being a hub to help those organizations grow. Ms. Cohn presented information suggesting services the Cultural Council could provide for local arts agencies. Compared to other Valley communities, the Scottsdale is on the low end of funding and support provided to local arts organizations.

Councilmember Drake indicated this would be a topic for debate at the City Council in the future. She inquired if there was a role the Cultural Council could play in providing a grants-matching program, using it as seed money to grow further funds. Ms. Cohn agreed, indicating the current monies are used as seed money; however, there is a capacity issue for the organizations, as well as a capacity issue for the Cultural Council. She indicated there has not been a designated person to take responsibility for this function, and would like to take the recommendations from the Cultural Assessment and turn it into something that helps the City and Cultural Council move to the Community Arts program to the next level. Councilmember Drake suggested using that information to develop a framework to present to the City Council in the future.

Ms. Cohn stated all of the organizations funded by the Cultural Council also receive money from the State Arts Commission. In an attempt to assist with the application process, similar forms are used so organizations do not have to do double work. She indicated there is ample opportunity for creativity by the Cultural Council in the future. Councilmember Drake stated some of the foundations have shown interest in doing projects in Scottsdale, and suggested the Cultural Council could assist as a matchmaker in that regard. Ms. Cohn indicated the opportunity is there, but not the capacity.

Co-Chair Hayslip inquired if there could be an explicit provision for that in the contract. Ms. Cohn stated there could be a designated function, a specific staff person, and a funding source particularly for grant making. She stated it is not something that is part of their budget, but a new initiative could get rolled into ongoing support to the Cultural Council.

Councilman McCullagh inquired if this was a discussion just about grants, or the mission of the Cultural Council. Ms. Cohn indicated that grants are a tool to deliver a higher level and quality of services to the community beyond the current programs. Councilman McCullagh suggested there were two areas in which the Cultural Council could do more: Development and fundraising, and in cultivating the arts in the City. He indicated the City and Cultural Councils should help other organizations succeed in their efforts and be a catalyst for the arts, but not necessarily be the arts. He inquired if the grants program will help stimulate the arts outside of the City government.

Ms. Cohn explained in order for the Cultural Council to be developed to that level, it requires an investment of resources. Grants are a tool that can be strategic in helping arts organizations develop into a regional provider for the arts. She indicated the Cultural Council does not have enough contact with these arts organizations. Regular contact would connect them to resources and information they might not currently have. Ms. Cohn stated a designated person would be a community organizer type of position.

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Mr. Clifford pointed out there needs to be a distinction between whether an organization is for-profit or not for-profit. Successful and/or for-profit organizations may not necessarily need a grant every year. Ms. Cohn stated the criterion is that these be non-profit organizations.

Councilman Ecton indicated in his opinion, the City wants the Cultural Council to support other art functions in the City. He suggested the Cultural Council could establish a committee to take on the responsibility of establishing guidelines and rules. He expressed concern about giving grants outside of Scottsdale, stating priority should be given to organizations providing this type of activity in Scottsdale. Ms. Cohn assured him that is in their guidelines, and many non-Scottsdale organizations have programs in the Scottsdale School Districts. She indicated the committee that reviewed these proposals was very specific about giving priority to those that served the Scottsdale community. Councilman Ecton stated there are Scottsdale children in school districts other than Scottsdale's, and the City does not provide them the same advantage.

Councilmember Drake stated in addition to bringing in the bigger venues, the City should be growing its own constituency for the arts by starting them at the grade school level. She also requested the Cultural Council's assistance relative to helping the City Council filter out non-feasible arts requests. Ms. Cohn stated the Cultural Council is a research arm for the City Council in relationship to community ideas. She stated in the future, requests could come through the Cultural Council.

c. Criteria for new partnerships and ventures

Ms. Cohn presented ideas for working together: Partnerships initiated by the City, community, local non-profits, or by the Cultural Council. She stated there are several criteria to determine whether to move forward, and that the Cultural Council would be the research arm to investigate and explore the ideas before they are brought to the City. This would provide a foundation for how the Cultural Council comes to the City with new ideas.

Councilman Ecton suggested this should be a role the Cultural Council plays; however, he questioned the cost for the Cultural Council to play this role. He asked how this could be worked into the contract. Co-Chair Hayslip suggested it be more explicitly spelled out that it is a function for the Cultural Council and that some kind of provision be made to avoid taking time to acquire more funding.

Ms. Cohn suggested that research and development funding be included in the contract to explore these ideas. She stated that would help provide the seed money to do the research and due diligence, and as a new idea becomes a part of the community the City Council would then decide at what level they would be prepared to support it. Councilmember Drake indicated it will be on a case-by-case basis, and could possibly be tied into community-oriented program development. Councilman Ecton suggested that creativity is the key in making this work.

Mr. Beer inquired whether new projects come under the Management Services Agreement for the Cultural Council. Councilman Ecton indicated those would be separate management contracts due to the diversity of projects.

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Mr. Beer stated Desert Stages and Stagebrush are ongoing operations that are part of the Scottsdale arts community, and inquired if they can be advised within the existing staff and budget. Ms. Cohn indicated as part of the Cultural Council's long-range planning, based on the findings from the Cultural Assessment, and renegotiating the Master Contract, the funding implications would have to be considered in fiscal year 08/09.

d. Ethics and open meeting policies

Mr. Michael Kelly, Scottsdale citizen, expressed concern regarding the Cultural Council's ethics policies, citing the need for enforcement provisions. He stated the Cultural Council's duties are different than the classic independent contractor. He stated there is no provision for how to register a complaint of an ethical violation. In addition, there is no designated process for evaluating and investigating complaints that may be made. He asked that the Cultural Council revisit their code of ethics. Co-Chair Hayslip stated the Cultural Council would review his recommendations. Councilman Ecton suggested the Cultural Council look at the City's Code of Ethics as an example.

Ms. Korf stated the two policies in the packet are policies that were recently adopted by the Cultural Council Board of Trustees. Ms. Cohn stated the Cultural Council did review the City's Code of Ethics when revisiting theirs. She stated considering the nature of the work the Cultural Council does, there is specific language related to staff and trustees accepting gifts of artwork, which is in line with museum standards. She indicated the issue of enforcement should be reviewed.

Ms. Cohn advised the open meeting policy came about as a result of the lawsuit with the newspaper last year. She stressed it was important for the Cultural Council to define an open meeting policy that respected and understood the competitive nature of the work that they do. She stated certain items directly related to donors and competition are not discussed in open meetings.

Councilman Ecton stated it is the desire of the City for the Cultural Council's ethic policy to be as closely aligned to the City's as possible. He requested the Cultural Council look at their policy again with that in mind.

e. Performance standards

Ms. Korf stated the contract does not contain performance measures, indicating it does make sense to include them in the contract. Some suggested performance measures were presented for consideration.

Ms. Cohn stated the items presented are performance measures the Cultural Council would like to demonstrate to the City; however, there are additional internal processes they implement that measure success.

Councilman Ecton inquired if all the items presented will have specifics regarding how performance is measured. Ms. Cohn added the Cultural Council would demonstrate to the City examples that support their progress on any particular measure. Councilman Ecton asked if citizen input would be measured, and Councilman McCullagh indicated the best measure of public opinion would be attendance. Ms. Cohn indicated that is

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included under Education and Outreach. Councilman Ecton stressed the importance of this issue, stating performance measures can enhance programs and results.

Ms. Korf encouraged any further questions regarding the Master Agreement. She stated all of the information gathered will be used to draft an agreement. She reminded the task force that the City's audit of the contract is still underway, thus there may be additional recommendations at the conclusion of that audit.

Councilman Ecton suggested there should be a discussion about the audit recommendations after its completion.

Future Meetings

Ms. Korf indicated the next task force meeting will be scheduled in the fall, hopefully in September, when a first draft of the contract will be available, along with any recommendations from the audit. She also plans to present a first draft of the new Art in Private Development ordinance as well.

4. Public Comment

Ms. Patty Badenoch, Scottsdale citizen, discussed concerns regarding the budget and the open meeting policy.

Co-Chair Hayslip stated the Public Art Program has received recognition in the book "The Art of Placemaking". He stated the program was also recognized at the National Conference of Art in Public Places as one of the superior programs in the country.

ADJOURNMENT

With no further business to discuss, being duly moved and seconded, the meeting was adjourned at 1:48 PM.

Respectfully submitted,

A/V Tronics, Inc.

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